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# EPA Mid-Atlantic Region Headlines

**Wednesday, August 12, 2015**

## \*\*\* DAILY HOT LIST \*\*\*

### **Editorial: Obama's plan to help coal communities**

**CHARLESTON GAZETTE-MAIL** Several coal corporations, including Alpha Natural Resources and Patriot Coal — have filed for bankruptcy in recent weeks. Value of their stocks and bonds sank into the cellar. Numerous mines have closed, and thousands of miners have been laid off. Painful suffering is felt in Southern West Virginia coal counties, exacerbating existing problems of poverty and drug addiction. Most of this slump is attributable to a flood of cheap natural gas, to depletion of good Appalachian coal seams, high company debt and the fall of coal prices. Yet West Virginia leaders blame it all on federal pollution controls and a supposed “war on coal.” They offer nothing to help devastated coal communities. In contrast, the Obama administration proposes a wide array of efforts to rescue hard-hit coal towns. The White House 2016 budget contains a “Power Plus Plan” that would:

- Pump \$200 million per year for five years to clean up abandoned strip mines, which could create multitudes of jobs for laid-off miners.
- Add \$5 million for “brownfields” work cleaning up pollution at coal-fired power plants.
- Give \$20 million to retrain ex-miners and help them find new jobs.
- Grant \$25 million to the Appalachian Regional Commission for efforts to create new businesses and upgrade water, sewer and telecommunications infrastructure.
- Add \$6 million more for “place-based regional innovation efforts” to spur jobs in distressed coal communities.
- Award \$3.9 billion over a decade to shore up pensions and medical care of retired miners.

All this sounds like the only sensible plan to resuscitate stricken counties. Too many West Virginia leaders, who don't want to acknowledge to voters the long-predicted decline in coal jobs, are criticizing Obama's plans instead of embracing them. Count the elected leaders who urge generation after generation to hitch their wagons to coal, even while coal companies continue to get out of pension, health care and pollution obligations in bankruptcy court. Frustrated, the president complained about coal-state resistance: “They will claim this is a ‘war on coal’ to scare up votes, even as they ignore my plan to actually invest in revitalizing coal country and supporting health care and retirement for coal miners and their families, and retraining those workers for better-paying jobs and healthier jobs.” Obama added: “I want to work with Congress to help them, not to use them as a political football. Partisan press releases

aren't going to help those families." It's time to stop political ranting about a fabricated war on coal. It's time to help communities ravaged by coal's hard times. So far, only President Obama is offering a sensible plan.

### **Editotrial: Obama's 'clean power': It costs too much**

**PITTSBURGH TRIBUNE-REVIEW** The Obama administration's claim that the EPA's "Clean Power Plan" will "reduce energy bills for households and businesses" long has defied common sense. After all, it forces the replacement of coal-fired power plants with more expensive electricity sources. Now, a new study quantifies those cost differences, confirming the administration's duplicity. Thomas Pyle is president of the Institute for Energy Research, which did the study. Writing in *The Wall Street Journal*, he says it's "the first of its kind to compare the cost of electricity from existing sources with that of new sources." Using federal data reported by electricity generators, the study found one megawatt-hour of electricity from existing nuclear plants costs an average of \$29.60. Comparable figures for existing hydro-, coal- and natural-gas-powered plants are \$34.20, \$38.40 and \$48.90, respectively. But for new natural gas plants, it's \$73.40, and for new wind turbines, \$106.80 — with the dramatic cost differences due largely to capital costs and the requirement for natural gas-fired plants to "be ramped up and down rapidly" as winds blow and calm. Mr. Pyle urges states, which are supposed to submit compliance plans or see the feds impose their own, to "think twice about working with the EPA." As he puts it, building new power plants to comply "would impose expensive and unnecessary costs — and the public would foot the bill," with low-income households hit hardest. Ah, another "progressive" pig in a poke.

### **Potential Seen for 4,000 Fracked Wells in Delaware Basin**

**BNA DAILY ENVIRONMENT REPORT** Aug. 11 — As many as 4,000 wells could use hydraulic fracturing in the Delaware River Basin to access natural gas in the Marcellus Shale if a moratorium on drilling in the area is lifted, according to a report released Aug. 11 by CNA, a nonprofit research and analysis organization in Arlington, Va. The analysis estimates future development of the interior Marcellus Shale region along the Delaware River Basin—which spans Pennsylvania, Delaware, New Jersey and New York—and attempts to quantify the potential impact to land cover, water and wastewater management, air quality, erosion and the health of roughly 45,000 people who could potentially live within one mile of a well pad if the area were developed. The report was funded by the Delaware Riverkeeper Network, an environmental group dedicated to the health of the Delaware River. "There is currently a moratorium on fracking in the Delaware River Basin and a ban in New York state," Paul Faeth, one of the co-authors of the study, told reporters during a conference call Aug. 11. "This study was done to help answer the question of what would happen if the Delaware River Basin moratorium were lifted, as well as the New York state ban." The Delaware River Basin Commission (DRBC), the cross-state agency with legal authority over the moratorium on drilling in the basin, told Bloomberg BNA Aug. 11 that it has not changed its policies and is reviewing the report.

### **EPA Treating Toxic Water From Abandoned Colorado Mine After Accident**

**NEW YORK TIMES** DENVER — Nearly a week after the Environmental Protection Agency accidentally breached a store of chemical-laced water from an abandoned mine in southwest Colorado, toxic water continues to spill at a rate of 500 to 700 gallons a minute, E.P.A. officials said Tuesday. The agency is treating the toxic water as it pours out, said David Ostrander, a regional emergency response director for the E.P.A. Colorado, New Mexico and the Navajo Nation have declared states of emergency. And the Colorado governor, John W. Hickenlooper, visited the contaminated river on Tuesday, speaking to residents in Durango who have been barred from using the Animas River because of the spill. “We take this as a catalyst,” Mr. Hickenlooper said, adding that there are thousands of abandoned mines in the West. “I think our goal here is to really focus on what we can do to make sure that those mines where we know we have a serious problem — how can we accelerate the remediation and make sure that something like this never happens again?” Gina McCarthy, the administrator of the E.P.A., apologized for the accident at an energy forum in Washington. “I am absolutely, deeply sorry that this ever happened,” Ms. McCarthy said, according to The Associated Press. On Aug. 5, a team contracted by the E.P.A. was investigating the Gold King Mine, an abandoned gold mine near Silverton, Colo., that had been leaking toxic water at varied rates for years. The goal was to figure out how to stop that leak. Instead, while using a backhoe, workers knocked away debris and unleashed an onslaught of orange-yellow water. The toxic plume flowed into the Animas River and traveled south. On Tuesday, officials estimated it had reached Kirtland, N.M., more than 100 miles from the mine. The spill caused levels of arsenic, lead and other metals to spike in the Animas River. Mr. Ostrander said Tuesday that in Durango, a city about 50 miles south of the mine, the river’s toxicity had returned to “pretty much a pre-incident level.”

### **EPA leader: Clean Power Plan 'legally sound'**

**WEST VIRGINIA METRO NEWS** WASHINGTON, D.C. — Federal EPA administrator Gina McCarthy said Tuesday the finalized Clean Power Plan is “quite legally solid” and should withstand any court challenge. McCarthy addressed the controversial CPP at the Resources for the Future (RFF) Leadership Forum. A 16-state consortium led by West Virginia Attorney General Patrick Morrisey has announced plans to fight the guidelines aimed at significantly reducing carbon emissions from coal-fired power plants by 2030. West Virginia is facing a 37 percent reduction in emissions which many view as a knockout punch to the coal industry. With a court challenge likely pending, McCarthy said: “We feel pretty good about it. We feel it’s very strong and it will stand the test of time in the courts.” During a question-and-answer session, McCarthy was asked what she would tell coal miners. “I realize there are communities that are suffering already and that see this rule as bringing more challenges to the table for them. I feel like there is an obligation to address those issues as there is in any economic transition,” she said. McCarthy supports President Barack Obama’s POWER Plus plan that would allocate \$55 million for retraining in coalfield communities. “They don’t need them by 2030, they need them now,” McCarthy said. “I’m hoping that now that this rule is finalized there will be opportunity to refocus attention on that plan that would substantially benefit those communities and allow appropriate transition of services as economies shift.” McCarthy also addressed a question about the Clean Power Plan’s future with a new administration after Obama leaves office. “All of these steps for the most part have been litigated and we are on solid ground and a new administration would hopefully want to continue to support it and I think they will see state plans in and moving forward a significant number by the time there is any transition of administration,” she said.

## **13 states join chorus asking courts to put WOTUS on hold**

**GREENWIRE** Thirteen states yesterday asked a federal judge to block U.S. EPA's major Clean Water Act jurisdiction rule from going into effect later this month. Led by North Dakota, the states have requested that a federal judge issue a preliminary injunction against the Waters of the U.S. rule before its Aug. 28 implementation date. The Obama administration rule will expand the number of streams and wetlands that automatically qualify for federal Clean Water Act protections. It has been largely applauded by environmental groups, but more than 25 states have filed a flood of lawsuits seeking to block it, largely claiming that it is an unconstitutional federal power grab that infringes on their states' rights. "The rule is perhaps the most controversial and widely objectionable rule that would usurp state and local control over vast reaches of water in North Dakota and across the nation," North Dakota Attorney General Wayne Stenehjem (R) said in a statement. North Dakota's lawsuit is joined by Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, South Dakota and Wyoming, as well as New Mexico's environmental agencies. It was filed in federal district court in southeast North Dakota. The states also asked for an oral argument to be scheduled on the injunction question the week of Aug. 24. A separate lawsuit from 11 other states was filed in federal court in Georgia. That court will hold a hearing tomorrow on whether to grant an injunction against the rule, with a ruling coming as soon as later this week. In either case, the bar for a court to grant a stay of a regulation while the litigation plays out is high. The challengers must show that they will suffer irreparable harm if the regulations are not put on hold and that it's likely that their arguments will ultimately succeed in court. The lawsuits are two of several challenges filed against the water proposal. Several industry and farming groups have also gone to court, as have environmentalists who claim the rule should be more far-reaching. Most of those cases are on hold at this point, however, as the court system is in the process of merging them into one case and determining the best court to review the consolidated litigation. The injunction motions are the earliest opportunities for the states to block the rule, which is an effort by EPA to clarify the Clean Water Act's jurisdiction after two muddled decisions from the Supreme Court.

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## **PENNSYLVANIA**

### **PHILADELPHIA INQUIRER**

For bird flu researchers, Delaware Bay is prime terrain The small shorebird - a ruddy turnstone - was not happy. Moments ago, it had been feasting on horseshoe crab eggs along the waterline of Delaware Bay near Villas, N.J. But now, University of Georgia researcher Deb Carter had a gentle but inescapable grip on the bird, and her colleague Clara Kienzle was sticking a cotton swab down its throat. Next, they swabbed the bird's other end and then jabbed a slim needle into a vein to draw blood before releasing it. Their goal: to see if this healthy bird was carrying a flu virus. Shorebirds, it turns out, are a major reservoir for the influenza virus. Every flu virus known to infect humans has its origins in the wild bird population, primarily shorebirds and ducks. And for shorebirds, nowhere do scientists find as many influenza viruses, or as high an infection rate, as they do on Delaware Bay. Learning more about these viruses now will help

scientists be better prepared if the viruses one day leap into other species. The viruses may, for instance, jump into commercially valuable livestock - as is happening now in Midwest poultry, forcing the slaughter of millions of birds and causing egg prices nationwide to skyrocket. On Wednesday, the Pennsylvania House Agriculture and Rural Affairs Committee heard testimony that the state should prepare for the outbreak here. Ultimately, the viruses found in shorebirds may even jump into humans, causing anything from small effects to pandemics such as the 2009 outbreak. As many as 90 million people were sickened and thousands died. Back in the lab, about 2,000 samples taken during a few weeks in May, when migrating shorebirds were passing through the bay, are being analyzed and frozen until needed for future research, possibly even the development of a vaccine. Scientists think Delaware Bay's importance to this work may have something to do with so many birds coming in from so many places - all over South America - to just a few beaches. There, they congregate in huge flocks, mingling with resident gulls and other birds, making the transmission of viruses from one species to another all the more likely.

### **PITTSBURGH POST-GAZETTE**

Destructive moth damaging cherry trees in Allegheny National Forest A tiny moth is munching on Pennsylvania's most commercially valuable tree, the black cherry, turning large swaths of the Allegheny National Forest brown and eating into future timber sale profits. The cherry scallop shell moth, an insect pest native to Pennsylvania and the eastern United States, has defoliated cherry trees on more than 17,000 acres in the Allegheny National Forest and a total of 56,000 acres in the public and private forests around the national forest in the northwestern corner of the state, according to a recent aerial survey by the Pennsylvania Bureau of Forestry. "This is the first time in more than 20 years that we've experienced an outbreak," said Andrea Hille, a silviculturist for the national forest, in a U.S. Forest Service news release last week. While a moth infestation, even one that lasts for multiple years, rarely kills black cherry, she said some decline in tree growth and overall health of the black cherry trees is likely. The moth infestation and resultant defoliation on the national forest land is visible to forest visitors in Warren, McKean and Elk counties, especially along State Route 6 between Kane and Sheffield, around the Kinzua Reservoir and in the Russell City and Ridgeway areas. The state Bureau of Forestry in the Department of Conservation and Natural Resources is also monitoring the moth on the commonwealth's 2.2 million acres of forest land, said Houping Liu, a forest entomologist in the bureau. "The moth is a native species found across the state, but this year, for the first year in a while, it's doing more damage than in most years, and people are noticing it," said Mr. Liu, although he noted no state forests are experiencing the defoliation impacts seen in the Allegheny National Forest. The scallop shell moth, *Hydria prunivorata*, gets its name from the pattern of alternating dark and light scalloped lines on its wings. According to a U.S. Forest Service fact sheet, the adult moths are found in the trees from late May to early August and lay eggs on the underside of cherry tree leaves. The eggs hatch from July through early August, and the yellow-and-brown-striped caterpillars feed voraciously on the tree leaves, defoliating the trees and stunting tree growth.

Letter: We shouldn't make our children wait for clean air I'm writing to add my voice to the editorial board's Aug. 9 support of President Barack Obama's Clean Power Plan ("Clean Power: The U.S. Must Give Obama's Plan a Chance"). By raising my children in Pittsburgh, I know I am exposing them to air pollution that may have already impacted their health. According to the American Lung Association, exposure to the kind of power plant pollution for which Pittsburgh

is known shortens the lives of residents an average of one to three years. And this is only one way their future will be impacted if our legislators fail to support the Clean Power Plan. The effects on all our youth as a result of climate change — a world of increased hunger, severe weather events and curtailed opportunities — should make the plan something every parent in the state supports. It will slash carbon pollution by 32 percent and set Pennsylvania on the path to addressing global climate change. Opponents counsel waiting to adopt these regulations. I'd say we — and our children — have lost enough time already.

### **PITTSBURGH TRIBUNE REVIEW**

Editotrial: Obama's 'clean power': It costs too much The Obama administration's claim that the EPA's "Clean Power Plan" will "reduce energy bills for households and businesses" long has defied common sense. After all, it forces the replacement of coal-fired power plants with more expensive electricity sources. Now, a new study quantifies those cost differences, confirming the administration's duplicity. Thomas Pyle is president of the Institute for Energy Research, which did the study. Writing in *The Wall Street Journal*, he says it's "the first of its kind to compare the cost of electricity from existing sources with that of new sources." Using federal data reported by electricity generators, the study found one megawatt-hour of electricity from existing nuclear plants costs an average of \$29.60. Comparable figures for existing hydro-, coal- and natural-gas-powered plants are \$34.20, \$38.40 and \$48.90, respectively. But for new natural gas plants, it's \$73.40, and for new wind turbines, \$106.80 — with the dramatic cost differences due largely to capital costs and the requirement for natural gas-fired plants to "be ramped up and down rapidly" as winds blow and calm. Mr. Pyle urges states, which are supposed to submit compliance plans or see the feds impose their own, to "think twice about working with the EPA." As he puts it, building new power plants to comply "would impose expensive and unnecessary costs — and the public would foot the bill," with low-income households hit hardest. Ah, another "progressive" pig in a poke.

Letter: More local shale benefits Western Pennsylvania is under the hand of an incredible energy revolution. To some, the region's oil and gas industry may have a hard exterior. But once you dig into the soft center of this industry, you'll find a myriad of economic benefits, cracking open the Pittsburgh area. Along these lines, at this time, Western Pennsylvania is at a crossroads — regarding Shell's proposed ethane cracker plant in Beaver County. Operators are producing an incredible amount of oil, condensate and natural gas from the Marcellus and Utica shale plays. With this hydrocarbon stream, we are capturing a glut of natural gas liquids, including ethane, propane, butane, pentane and other, heavier products. Ethane has many different uses, but is more valuable in the form of ethylene — a plastic that has worldwide consumption. The ethane cracker will thermally break down ethane into ethylene. If Western Pennsylvania is producing record-breaking amounts of ethane, why are we shipping this product down to Southern states? Ethane is in oversupply. It's a no-brainer — let's band together, support Shell's cracker plant and spur the creation of thousands of jobs. It's all about keeping things local.

Letter: Not future's fuel If you were confused by the editorial "The climate ruse: A warped dimension", you're not alone. The editorial board and its unreliable source, Joe Bastardi, ignored the irrefutable science and economic reality around coal. Historic drought on the West Coast, longer and more severe wildfire seasons in the Rockies, and worsening sea-level rise on the East Coast — the reality is that communities nationwide are experiencing firsthand the impacts of a

changing climate. These impacts are driven primarily by human activities, namely the burning of fossil fuels. That's probably why over 60 percent of Pennsylvanians support the Environmental Protection Agency's Clean Power Plan, our nation's first-ever limits on power plant carbon emissions — the single largest source of U.S. global warming emissions. The plan's public health and climate benefits, totaling \$34 billion to \$54 billion in 2030, far outweigh its \$8.4 billion estimated costs. While some like to blame the Clean Power Plan for coal's demise, the reality is its decline is already well underway. The culprit? Cheap natural gas and more affordable renewables, coupled with coal's health impacts and climate pitfalls, have made coal a less desirable, less economical option. So while King Coal reigned in the past, our future lies with renewables.

## **STATE IMPACT PENNSYLVANIA**

D.C. to buy Pennsylvania wind power A wind farm in Western Pennsylvania plans to send its energy to Washington D.C., where the municipal government is trying to get its carbon footprint down to zero. Iberdrola Renewables, the Spanish company that owns the South Chestnut Wind Power Project in Fayette County, agreed to send the power generated by its 23 turbines to the District of Columbia. The 20-year agreement will provide about 35 percent of the electricity the DC government needs to power its municipal buildings. Washington D.C. Mayor Muriel Bowser called it the “largest wind power deal of its kind ever entered into by an American city,” in a statement. Bowser said it would save the district \$45 million over the next 20 years. The amount of electricity generated by the wind farm is the equivalent of powering 12,000 homes. As part of the agreement, the city is buying Renewable Energy Credits from Iberdrola, said company spokesman Paul Copleman. Copleman noted the company has similar agreements, called power purchase agreements, with Ohio State University, which is buying wind energy from an installation in Ohio, and Amazon Web Services, which will get power from a North Carolina wind farm, currently under construction. Companies like Google and Yahoo have entered into similar agreements to use wind to power some of their data centers. “We see these types of direct retail customers interested in wind energy for lots of different reasons,” Copleman said. “In DC they talked about the savings, they talked about their interest in going green.” The cost of wind is at its lowest point in history, the Department of Energy reported this week.

Talking pipelines on WITF's Smart Talk (Audio link) An estimated 30,000 new miles of pipeline will be built in Pennsylvania to accommodate the shale gas boom, according to the Wolf Administration. Some of these lines will be large, high pressure pipes that travel across state lines and are regulated by the federal government. But some are much smaller, carrying gas from the wellhead to larger lines that feed the interstate system. In rural areas, these lines are not regulated. And although detailed locations of all above ground infrastructure is available to the public at their finger tips, that underground system remains hidden. WITF host Scott LaMar spoke with StateImpact reporter Susan Phillips about the dangers of unmapped pipes.

## **ERIE TIMES NEWS**

Public meeting set tonight on Lake Erie marine sanctuary plan Plans to establish a federal marine sanctuary that includes Lake Erie and Presque Isle Bay will be the subject of a public meeting tonight at Blasco Library. The meeting starts at 6 p.m. at Hirt Auditorium, 160 E. Front St. Ellen Brody, Great Lakes regional coordinator for the National Oceanic and Atmospheric

Administration, will lead the meeting and will be joined by Honey Stempka, who is helping the county prepare an application to NOAA to establish the marine sanctuary. According to Erie County Executive Kathy Dahlkemper's office, the public will get an overview of marine sanctuaries, information about Erie County's application, and find out which local organizations and individuals support the project. Marine sanctuaries are federally protected waters that can include reefs, kelp forests, deep canyons, shipwrecks or other underwater sites. Launching a sanctuary was recommended by the Emerge 2040 plan. Dahlkemper supports the plan, which is also backed by City Council and County Council.

Free public program to share Hidden Treasures of Presque Isle Marti Martz knows that people go to Presque Isle State Park to sit in the sun on the sand, to walk with their children on the paths, even to watch a wedding. But she wants visitors to understand that the peninsula is more than beaches and trails and public professions of love. "They don't realize all the cool stuff that goes on behind the scenes," said Martz, a senior coastal outreach specialist with Pennsylvania Sea Grant. To share some of that information, Pennsylvania Sea Grant has organized Hidden Treasures of Presque Isle. The free event, planned for Friday from 7:30 to 10 p.m. and Saturday from 8 a.m. to 3 p.m., will feature experts including botanist Jim Bissell of the Cleveland Museum of Natural History, who will lead a rare plant hike. Martz said local experts also will talk about animals, natural events and history that make Presque Isle a special place. "I'm hoping this two-day event will educate and inspire people in the Erie community to think of Presque Isle in new ways, and perhaps encourage them to consider getting involved in citizen science opportunities like the Pennsylvania Amphibian and Reptile Survey," she said. Mark Lethaby, of the Natural History Museum at the Tom Ridge Environmental Center, will talk about the survey, a statewide project in its third year, during a Herpetology Hike at the park. The survey relies on everyday people to help document turtle, lizard, snake, frog and salamander species.

### **HARRISBURG PATRIOT NEWS**

Midstate communities try to maximize money for stormwater improvements Rain has to go somewhere when it hits the concrete roadways, and some midstate communities are coming up with creative ways to pay for upgrades to aging pipes and infrastructure. The water drips into pipes — older ones combine the rainwaters with sewage, newer pipes separate the two — and municipalities are required under many state and federal guidelines to keep this runoff, often laced with gas and other chemicals, from polluting rivers and streams. Municipalities have to comply with regulations by the federal and state environmental agencies to prevent stormwater pollution from entering the waterways. Some communities are trying to get ahead for additional regulations that may come down from the Environmental Protection Agency. In Hampden Township, officials are looking to a stormwater fee, which would be a flat fee for residences and a sliding fee for businesses based on impervious surface area per each business. In April, officials discussed a quarterly stormwater fee ranging from \$10 to \$16 for residential property owners, \$70 to \$112 for a gas station, \$400 to \$600 for a church, and \$700 to \$1,120 for a store. Commissioner Al Bienstock said the fee was chosen over a tax so that things like churches — which are often accompanied by large parking lots — would pay into stormwater management improvements. "We thought that was a fairer way," Bienstock said. Several years ago, municipalities were hurt by mandates that required upgrades to sewer systems. Hampden spent \$25 million on two pieces of equipment to upgrade its system. Though some municipalities have a combined stormwater and sewer system, Hampden Township has separate systems. Right



now, some of the infrastructure in the township dates back to the 1960s and 1970s. "Things that maybe 30 years ago were perfectly acceptable are not today," Bienstock said. The fee will be an ongoing fee that could increase or decrease as needed, he said. "We're very cognizant of how we handle our money," Bienstock said. "We don't have the resources to address this." Other municipalities have tried creative ways to maximize money for stormwater improvements. Many communities in the midstate — including Hampden Township — are part of the Department of Environmental Protection's Municipal Separate Storm Sewer Program, which administers the federal Clean Water Act by issuing permits to municipalities. As part of this, municipalities are required to create best management practices, an annual report, the ability to maintain funding and staffing for the requirements, and a Chesapeake Bay Pollution Reduction Plan. York County used the Chesapeake Bay Pollution Reduction Plan as a way to combine the reach of municipalities, forming a consortium with the county and 43 other municipalities in the county.

### **LANCASTER NEWSPAPERS**

Residents question plans for green space in East Petersburg Residents have a few questions about the East Petersburg Borough's handling of a green space near an up-and-coming commercial area at the corner of Manheim Pike and Miller Road. The commercial space fronting Manheim Pike, called "Village Commons," is home to some of the borough's most popular restaurants and other businesses; the newest addition is the Mad Chef Brew Pub that opened just a few weeks ago. Behind Village Commons, there are a few acres of green space, a low-lying area with a fitness park and playground at one end, with homes circling half of the park. The borough calls the green space The Meadows. Late in July, contractors hired by the borough sprayed Roundup, a weed and grass killer, on most of the open lot. Then, on Aug. 4, part of the space was plowed up. Residents have argued that the borough did not adequately discuss the project in its monthly public meetings, that meeting minutes do not show what plans the borough had for The Meadows and that residents deserve more notification about intended projects. Part of the borough's eventual plan calls for replacing the manicured lawn area with tall natural grasses. Some residents had concerns about ticks and wildlife being so close to homes. Borough Manager Robin Hemperly said Aug. 3 the reason the lawn area is being transformed is to meet state stormwater objectives. Hemperly said the borough checked with the state Department of Environmental Protection about proper procedures. When contacted by LNP, a DEP spokesman referred a reporter to the Lancaster Conservation District, which, DEP said, often handles "general permits" for similar projects. "They asked for our advice," said Conservation District watershed specialist Matt Kofroth on Aug. 5. Kofroth said tall natural grasses can help filter runoff entering the Little Conestoga Creek watershed through a stormwater facility on the west side of Route 72.

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## **WEST VIRGINIA**

### **CHARLESTON GAZETTE-MAIL**

Editorial: Obama's plan to help coal communities Several coal corporations, including Alpha Natural Resources and Patriot Coal — have filed for bankruptcy in recent weeks. Value of their stocks and bonds sank into the cellar. Numerous mines have closed, and thousands of miners have been laid off. Painful suffering is felt in Southern West Virginia coal counties, exacerbating

existing problems of poverty and drug addiction. Most of this slump is attributable to a flood of cheap natural gas, to depletion of good Appalachian coal seams, high company debt and the fall of coal prices. Yet West Virginia leaders blame it all on federal pollution controls and a supposed “war on coal.” They offer nothing to help devastated coal communities. In contrast, the Obama administration proposes a wide array of efforts to rescue hard-hit coal towns. The White House 2016 budget contains a “Power Plus Plan” that would:

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- Add \$5 million for “brownfields” work cleaning up pollution at coal-fired power plants.
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All this sounds like the only sensible plan to resuscitate stricken counties. Too many West Virginia leaders, who don’t want to acknowledge to voters the long-predicted decline in coal jobs, are criticizing Obama’s plans instead of embracing them. Count the elected leaders who urge generation after generation to hitch their wagons to coal, even while coal companies continue to get out of pension, health care and pollution obligations in bankruptcy court. Frustrated, the president complained about coal-state resistance: “They will claim this is a ‘war on coal’ to scare up votes, even as they ignore my plan to actually invest in revitalizing coal country and supporting health care and retirement for coal miners and their families, and retraining those workers for better-paying jobs and healthier jobs.” Obama added: “I want to work with Congress to help them, not to use them as a political football. Partisan press releases aren’t going to help those families.” It’s time to stop political ranting about a fabricated war on coal. It’s time to help communities ravaged by coal’s hard times. So far, only President Obama is offering a sensible plan.

Commentary: Eliminating coal an irresponsible idea The new environmental regulations released weeks ago by the Obama Administration’s Environmental Protection Agency are not only a “War on Coal,” but they also are extraordinarily irresponsible and will affect millions of Americans who rely on the inexpensive electricity coal brings to the table. The rules are the final, tougher regulations that were first announced by the EPA in 2012 and 2014, so they come as no surprise. Legal challenges are forthcoming from coal states like West Virginia. Should this final attack by the EPA survive these legal challenges, more of what we already have seen during the Obama years will result: hundreds of coal-fired power plants will be shut down and many new coal plants will not be built. Welcome to Green America. Just one mammoth problem: what is the existing substitute for coal in America’s energy portfolio?

Patriot could dump cleanup costs on taxpayers, DEP warns CHARLESTON, W.Va. — Lawyers for the state Department of Environmental Protection are warning that Patriot Coal’s current bankruptcy plans could leave West Virginia stuck with the liability for hundreds of millions of dollars in land reclamation and water treatment costs. DEP lawyers filed a formal objection in U.S. Bankruptcy Court in Richmond, Virginia, to Patriot’s “disclosure statement,” a document that spells out the company’s current finances and is supposed to detail a firm’s proposal for

reorganization. Patriot wants to sell certain of its assets — those without significant long-term pollution liabilities — as part of a bankruptcy plan being considered by the court. Kevin Barrett, a Bailey and Glasser lawyer representing the DEP in the case, said in the agency's objection that the move would leave Patriot with "enormous environmental liabilities and obligations, and little to no ability ... to reclaim the land and treat acid mine drainage and other water pollution problems left in the wake of its mining operations." Barrett said the plan "would leave the people of the state of West Virginia and other states in which the debtors operated exposed to imminent public health and safety risks." Patriot would be "denuded of its only valuable assets and the proceeds therefrom" and "will be left with no real assets with which to deal with hundreds of millions of dollars of legal obligations to reclaim the land and treat water." The Patriot case is one in a series of ongoing coal industry bankruptcies that have labor organizations, environmental groups and regulators increasingly concerned that the downturn in the mining business could prompt some operators to try to escape growing liabilities for mine cleanups and worker benefits. Last week, the U.S. Office of Surface Mining said a preliminary analysis found that 41 percent of the mining permits in West Virginia are held by companies whose parent corporations are in bankruptcy court.

Prosecutors indicate Freedom's Farrell will plead guilty Prosecutors indicated Tuesday that former Freedom Industries official Dennis Farrell is expected to plead guilty to charges concerning the January 2014 chemical leak at the company's Elk River facility in Charleston. Assistant U.S. Attorney Phil Wright asked U.S. District Judge Thomas Johnston to schedule a guilty plea hearing for Farrell. Late Tuesday, Johnston issued an order setting the hearing for 3 p.m. on Aug. 18. The move is a standard procedure when a defendant who has pleaded not guilty changes that plea under an agreement with prosecutors. Wright's two-page court filing did not indicate exactly which charges would be covered by any plea agreement. Farrell faces three water pollution charges, all misdemeanors, related to the leak of Crude MCHM and other chemicals, an incident that contaminated the drinking water supply for hundreds of thousands of residents in Charleston and surrounding communities. The charges involve negligent discharge of a pollutant, illegal discharge of refuse into a stream, and negligent violation of a pollution permit. Prosecutors allege that Freedom officials allegedly approved funding only for projects that would result in increased business revenue for Freedom, or that were immediately necessary for required equipment maintenance, officials alleged. They allegedly failed to take action to fund other repair and upkeep projects for equipment and systems necessary for environmental compliance at Freedom's Elk River facility, including repairing a spill containment wall, addressing drainage problems in the containment area, and implementing proper water protection plans.

Cleanup firm wins payment dispute with Freedom Industries CHARLESTON, W.Va. — A federal judge has sided with a former Freedom Industries contractor in a dispute over how the bankrupt company pays the firm for work performed as part of cleanup of Freedom's Elk River terminal, site of the January 2014 chemical leak that contaminated the region's drinking water supply. U.S. Bankruptcy Judge Ronald Pearson sustained an objection that the environmental consulting firm ARCADIS filed to the latest version of Freedom's bankruptcy "disclosure statement," a document that outlines the company's finances and provides information about how it plans to resolve its bankruptcy case. In a two-page order issued Monday, Pearson praised -ARCADIS for its work on the Etowah River Terminal cleanup at a time when Freedom's

finances “were uncertain” and “when there was a need to restore public confidence in the safety of the region’s water supply.” Pearson said that ARCADIS was “the primary party assuming the responsibility of preventing additional environmental contamination” at the site up to the “very last minute prior” to a bankruptcy court hearing on July 28. At that hearing, Pearson had approved a motion for Freedom to hire a new consultant, CORE Environmental Services Inc., to replace ARCADIS. Earlier in July, Freedom and the Department of Environmental Protection, which is overseeing the cleanup, split with -ARCADIS in a dispute over how much the firm would be paid for future work.

Slide removal work resumes at Yeager; first forensic test site opened Heavy-equipment operators dug through the asphalt pad beneath the remnants of the Engineered Material Arresting System bed at Yeager Airport’s slide-plagued safety overrun area Tuesday and loaded the material into a near steady stream of earth-moving trucks bound for a compacting site on the Elk River side of the runway. As the earth beneath the asphalt was exposed a safe distance from the edge of the slide zone, an excavator operator began digging a three-foot-deep trench from which the first forensic samples of engineered fill material will be collected and loaded into 55-gallon drums, which will later be sealed and sent to laboratories for analysis. “Everyone on all sides of the lawsuit is interested in learning what happened — what made the slope fail,” said Mike Plante, spokesman for the Charleston airport. “We want to be sure to preserve forensic evidence. But we also want to remove dirt up here at the top of the slope as fast as it can safely be done. There’s a big multiplier effect at work. Every pound we take off the top greatly reduces pressure at toe, reducing the likelihood of the toe moving forward again.” Yeager’s slide repair contractor, S & E Clearing and Hydroseeding of Varney in Mingo County, began removing the EMAS bed on July 20. But that work came to a halt last week, as airport and contracting officials worked out new planning details, and attorneys for the airport responded to a petition filed last Wednesday by attorneys representing the companies Yeager is suing. The petition calls for the suit to be moved from Kanawha County Circuit Court, where it was filed in May, to federal court, since the Federal Aviation Administration oversees airport safety issues.

Commentary: Paying every price in W.Va. coal communities (Tuesday) John Kennedy, in his inaugural address, said that America would “pay any price, bear any burden, meet any hardship, support any friend, or oppose any foe, to assure the survival and the success of liberty.” He need not have said this in West Virginia. West Virginia had already done that. West Virginia — and her coalfield communities and miners, in particular — won two World Wars. West Virginia turned mountains of coal into rivers of steel for ships, tanks, and rifles. And her servicemen fought those wars — securing the blessings of liberty not only for ourselves but for millions of strangers on the other side of the world. Over 100,000 Americans have died mining coal, and 100,000 more died later on from black lung. No one has counted all the costs paid by West Virginians to bring coal up from underground. Even so, West Virginia has never been rich. As ton after ton of coal came out of the earth to fuel America, and to save Europe from fascism and Nazism, the working people of West Virginia never profited — never made more than a bare living on the hard work of mining coal and working steel. The great fortunes made in timber and coal were never widely shared. Even at the height of the industry (in terms of employment), more than 50 years ago, poverty in West Virginia’s coalfields was a scandal, that President Kennedy himself brought to the nation’s attention, and worked to end, before his assassination. For more than 150 years, West Virginia has done her part, to build, to preserve, and

to defend America. Come to find out it's not enough. Even more is being asked of our state, much of it on behalf of people who don't live here. Over the last 15 years, West Virginia has been asked to give up more and more of the industry that built the state. Once the entire nation burned its lights, cooked its food, and heated its homes with our coal. Fifteen years ago, half the nation's electricity came from coal — now it's under 40 percent. Once the undisputed king of fuels in our country, and the world, coal has lost ground to cheap fracked natural gas and other sources of energy. But it isn't just the economics — as competition has risen against coal, the country started complaining about it. “Too dirty,” “too dangerous,” “too much carbon pollution” — coal has lost its popularity in other parts of the country that don't mine it and use it as West Virginia does. Energy sources that coal trounced in the marketplace 20 years ago are now selling better and better here and abroad.

Blankenship repeats request to keep UBB disaster out of trial CHARLESTON, W.Va. —

Defense lawyers for former Massey Energy CEO Don Blankenship this week are again insisting that evidence about the Upper Big Branch Mine Disaster be kept from the jury when the criminal case against Blankenship goes to trial in October. In a new court filing, Blankenship's attorneys argue that evidence about the April 5, 2010, explosion that killed 29 miners “is not relevant to any of the offenses” alleged in a three-count felony indictment against Blankenship.

Blankenship's defense team filed their 12-page legal brief late Monday, in reply to a response in which prosecutors argued against Blankenship's initial motion to prevent any evidence about the mine disaster from being considered by the jury. U.S. Attorney Booth Goodwin's staff and Blankenship's defense team filed their arguments with U.S. District Judge Irene Berger as part of the process of outlining the boundaries of the evidence that will be presented. Trial is scheduled to start Oct. 1 in Charleston. Blankenship faces three felony counts alleging that he conspired to violate federal mine safety standards, worked to thwart U.S. Mine Safety and Health Administration inspectors and lied to the U.S. Securities and Exchange Commission, and to the investing public, about Massey's safety practices. Blankenship says he is innocent. While the indictment does not specifically allege that Blankenship was responsible for the Upper Big Branch Disaster, it does focus on events at that mine. The indictment outlines repeated violations at the UBB mine of federal safety rules meant to prevent mine explosions, such as those mandating proper ventilation and control of highly explosive coal dust. Defense lawyers argue that evidence about the mine disaster is irrelevant to the case and would be unfairly prejudicial to Blankenship. Assistant U.S. Attorney Steve Ruby responds that some evidence about the disaster is necessary, especially for the government to explain its allegations that after the mine disaster Blankenship directed the issuance of false statements about Massey safety policies in an effort to stop stock prices from plummeting amid widespread media reports “that lawlessness caused the explosion.”

Blog: The future is here: Climate change, coal and the search for a path forward for the coalfields (August 5) It is not surprising that the usual suspects among the West Virginia media have come out in full force to thunder against the final version of the Obama administration's Clean Power Plan (see [here](#), [here](#) and [here](#)). There's a lot of uninformed talk about “power grabs” and “doctrinaire” regulatory moves, given the near-unlimited flexibility that EPA gives states to come up with their own compliance plans. The Wheeling paper is fixated on why Hawaii was exempt, and Hoppy Kercheval is so eager for some “civil disobedience” that I picture him chaining himself to a computer in Washington in a patriotic attempt to keep the rule

from being published in the Federal Register. The Daily Mail editorial page is ranting about how the EPA rule is “aimed at dramatically reducing use of fossil fuels and forcing rapid shifts toward alternative energy sources like solar and wind.” They ignore the fact that these shifts have already happened, and are continuing to happen, largely as a result of the kinds of market forces that they so love to champion. As we reported today, citing EPA’s analysis of its rule:

### **WEST VIRGINIA METRO NEWS**

EPA leader: Clean Power Plan 'legally sound' WASHINGTON, D.C. — Federal EPA administrator Gina McCarthy said Tuesday the finalized Clean Power Plan is “quite legally solid” and should withstand any court challenge. McCarthy addressed the controversial CPP at the Resources for the Future (RFF) Leadership Forum. A 16-state consortium led by West Virginia Attorney General Patrick Morrisey has announced plans to fight the guidelines aimed at significantly reducing carbon emissions from coal-fired power plants by 2030. West Virginia is facing a 37 percent reduction in emissions which many view as a knockout punch to the coal industry. With a court challenge likely pending, McCarthy said: “We feel pretty good about it. We feel it’s very strong and it will stand the test of time in the courts.” During a question-and-answer session, McCarthy was asked what she would tell coal miners. “I realize there are communities that are suffering already and that see this rule as bringing more challenges to the table for them. I feel like there is an obligation to address those issues as there is in any economic transition,” she said. McCarthy supports President Barack Obama’s POWER Plus plan that would allocate \$55 million for retraining in coalfield communities. “They don’t need them by 2030, they need them now,” McCarthy said. “I’m hoping that now that this rule is finalized there will be opportunity to refocus attention on that plan that would substantially benefit those communities and allow appropriate transition of services as economies shift.” McCarthy also addressed a question about the Clean Power Plan’s future with a new administration after Obama leaves office. “All of these steps for the most part have been litigated and we are on solid ground and a new administration would hopefully want to continue to support it and I think they will see state plans in and moving forward a significant number by the time there is any transition of administration,” she said.

### **BECKLEY REGISTER HERALD**

Judge issues four orders in Blankenship trial motions (Tuesday) A federal judge denied three motions Monday from defense counsel for former Massey Energy CEO Don Blankenship, all of which requested additional material from U.S. prosecutors.

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## **MARYLAND**

### **BALTIMORE SUN**

Environment secretary pledges fracking policy transparency Maryland Department of the Environment Secretary Ben Grumbles says his agency will gather more information and listen to citizens as it develops rules for fracking in the state. Grumbles fielded questions at a public meeting Tuesday in Garrett County in far western Maryland, where most of the state’s shale gas resources lie. He told The Associated Press in a telephone interview that he’s committed to a transparent process and to good stewardship of the Deep Creek Lake watershed. A law passed by

this year's General Assembly requires the Department of the Environment to finalize regulations for hydraulic fracturing for natural gas by Oct. 1, 2016. No drilling would be permitted before Oct. 1, 2017.

### **SOUTHERN MARYLAND NEWS**

Local Oyster Farmers Support Aquaculture Efforts HOLLYWOOD, Md. -- In recent years, local watermen are making an effort maintain their livelihoods and improve the health of the Chesapeake Bay and associated waterways. Moving forward, there are efforts to allow them to continue making a living and to promote additional aquaculture in the area. The focus shouldn't be only on the health of the bay, said Morgan State University Patuxent Environmental and Aquatic Research Laboratory (PEARL) Director Kelton Clark. That would be similar to saying it's someone's fault for being sick when they have a fever. Instead, people need to think about what they can do to improve the health of the watershed and tributaries into the Chesapeake. The cleanup will take millions of dollars, Clark said, and the money is difficult to come by. The focus needs to be on finding marketbased solutions to environmental problems, specifically encouraging local watermen to be involved in aquaculture. "If you want to save the bay, eat Tommy (Zinn)'s oysters," Clark said. While in the water, seeded oysters will filter water and breed like any other oyster. And the harvest is always incomplete, meaning the oyster population will continue to rise, he said. Nobody has a Save the Corn or a Save the Soybeans campaign because industries plant them and it's less likely there will be a shortage. Local watermen have been doing something similar with oysters, Clark said. In the past, the state would declare a threeyear preserve, plant oysters there, and when the moratorium was over they would allow watermen to come harvest the preserve. This was an unsustainable model, Clark said. It was only minimally successful in helping the oyster population to recover and kept the watermen dependent on the state for their livelihood. The watermen needed to become entrepreneurs, he said. There are a couple methods for planting oysters, said Southern Maryland Shellfish Growers Association President and Shore Thing Shellfish Partner Brian Russell. Oyster farmers can take out a bottom lease, meaning they can only plant spat on shell on the bottom and harvest them using a dredger or tongs. Another method involved taking out a water column lease, meaning watermen can use cages and keep the oysters off the bottom, which makes a difference in the size and shape of oysters. Another factor that can make a difference is the type of oysters seeded, Russell said. Some grow faster than others. Farm raised oysters in general tend to be more marketable to the half shell market, said Calvert County Watermen's Association President Tommy Zinn. They're typically larger and more regularly shaped. Additionally, cage raised oysters can be kept safe from predators and recovered more easily, Clark said.

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## **VIRGINIA**

### **RICHMOND TIMES-DISPATCH**

Editorial: Uranium mining debate resurfaces again For decades, the commonwealth has been having an on-again, off-again debate over uranium mining. With the filing of a federal lawsuit by Virginia Uranium Inc., the debate is officially back on. The lawsuit makes a straightforward claim: The Atomic Energy Act vests all authority for radiation-related regulation in the federal

Nuclear Regulatory Commission. Virginia can write rules for a uranium mine on any number of grounds, such as hours of operation or surety bonds. But it cannot regulate radiation safety matters, which are the exclusive province of the feds. And yet, the plaintiffs claim, Virginia's ban on uranium mining is based almost exclusively on concerns about the hazards presented by radioactive tailings from the mining process. That much will ring true to anyone who has followed the debate over the moratorium. In its resolution in support of keeping the ban, the Danville-Pittsylvania Chamber of Commerce cited "significant questions around whether uranium can be mined and milled safely in the commonwealth." Gov. Terry McAuliffe said he opposed uranium mining because "my job is to make sure that our communities and our citizenry are safe." The Southern Environmental Law Center and countless others emphasized passages from a study by the National Academies of Science regarding "surface groundwater contamination" from "tailings repositories"; the "risk of cancer from drinking water"; the lingering of "radiation in uranium tailings for thousands of years"; and so on. Fears like that are wildly overblown. But even if you believe them, the lawsuit claims they are not Virginia's problem to fix: Washington, not Richmond, holds all the authority to address them. Therefore, the state's ban on uranium mining must be repealed. Environmental and other groups are bound to contest that assertion vehemently. And so, probably, will Mark Herring, since it falls to him as attorney general to defend the state's law, as he will want to do for political reasons. That should make for some interesting discussion in political circles, because Herring will have to argue the case for states' rights — something he refused to do regarding Virginia's marriage amendment. In that instance, he sided with the plaintiffs against the commonwealth, on the grounds that the federal government's authority pre-empts the state's. It will be interesting to see how he manages to argue the opposite here.

Henrico to consider legally allowing air conditioner condensation and other water sources Drops of condensation dripping from air conditioners and springs bubbling up from the ground could soon be legal in Henrico County — even if that water eventually ends up in a storm sewer. That's not to say they're illegal now; the law is silent on them. But, at the insistence of the Environmental Protection Agency, Henrico County officials now find themselves in the position of having to officially legalize springs, air conditioner condensation and a variety of other sources of water that are either mundane, natural or both. "Not all of it makes rational sense," conceded County Manager John A. Vithoulkas when faced with questions from puzzled members of the county's Board of Supervisors at its Tuesday evening meeting. The changes would also legitimize, among other things, rising groundwater levels from periods of high rainfall (such as the spring), broken water mains, foundation and footing drains, residents washing cars in their driveways and the runoff from firefighting activities. "Firefighters will be happy to know they don't have to collect their water," said Steven J. Yob, the county's director of public works. The changes to the county's legal code will also specifically make charity car washes legal. The first rules the EPA proposed would have forced the county to ban charity car washes. Henrico pushed back and won concessions, including the OK to continue allowing charity car washes, officials said. Yob acknowledged that many of the discharges have been happening "forever." A provision says the water sources are legal unless the state Water Control Board or the county's director of public works determines they're significant sources of pollution, he said. If they're labeled significant sources of pollution, the county would have more legal authority to crack down on them. The county is expected to formally consider the legal changes in September and October.



### **NORFOLK VIRGINIAN PILOT**

Editorial: On uranium, Virginia should have a say Two years ago, Virginia Uranium Inc. and its supporters scaled back their campaign to end the state's longtime ban on uranium mining in the face of broad opposition. The company's effort to extract and process 119 million pounds of the ore in Pittsylvania County galvanized business and environmental groups, Republicans and Democrats, from across the commonwealth, and led the company to suspend its campaign. Now, the company's back on the offensive. It has taken, perhaps, the most offensive route imaginable to secure its goal, with little regard for the residents near the proposed mine or the 1 million people in South Hampton Roads whose drinking water supply is downstream. Virginia Uranium Inc. aims to achieve through a federal court what it couldn't win in the General Assembly: an end to the state's ban on uranium mining approved by lawmakers in 1982. The lawsuit serves as little more than a sad and cynical exercise to usurp a state's right to establish and enforce laws on land use and mining, and protect the general welfare of its residents. "On the one hand, in pursuit of health, safety and environmental concerns, the [Nuclear Regulatory Commission] has put in place strict standards that anyone who wishes to operate a uranium milling or tailings management facility must meet," the lawsuit claims. "On the other hand, recognizing that development of domestic uranium deposits carries substantial benefits — in terms of national security, economic growth, and the production of clean, independent energy — the NRC has determined that uranium can be milled, and its tailings can be stored, if its regulatory requirements are satisfied. "Whether the balance that the NRC's regulations strike between these competing values is the optimal one is a matter for the federal government to decide, not Virginia."

### **CBS 6 RICHMOND**

Pet waste largest contributor of E. coli in James River RICHMOND, Va. – Martin Rubenstein always remembers to bring a bag when taking his dog for walks. As a pet owner, he knows it's his responsibility to pick up after his dog when she goes to the bathroom. "We don't need to have other people who don't have a pet be responsible for your pet's duties," he said. Martin said it can be frustrating to see pet waste while out, but according to the Department of Environmental Quality, it's not just an annoyance but a health issue. The DEQ said pet waste is one of the largest contributors of E. coli in the river. "Pet waste is a huge issue," said Amber Ellis with the James River Association, "one of the main things facing the James River is kind of the storm water runoff. When it rains all of the stuff that it's picking up is washing into our waterways." The James River Association is an organization that works hard to keep the water clean. To help put a stop to the problem, she said they've made plans to install 30 pet waste stations in the area. There are 15 in Chesterfield County that have been installed, and there will be 15 in Richmond. The stations have bags for owners, as well as trash bins to help make it easier to pick up after your pet. "That pet waste contains tons of bacteria that we don't want for our kids and other dogs to be walking through, coming in contact with, and we don't want that washing off into our waterways," said Ellis. After learning about the contamination Martin said he hopes other pet owners will take the time to pick up after your dog, no matter how much of a rush someone may be in. "I think it's the most important thing we can do," he said.

### **VIRGINIA GAZETTE**

Application for historic designation affects permit review for Dominion JAMES CITY —

Sometime in the coming weeks, or months depending on who you ask, the U.S. Army Corps of Engineers is expected to approve or deny a permit for Dominion to build transmission lines across the James River. The Corps has repeatedly declined to commit to a timeline for the permit, but before any decision can be made, the federal government will have to decide whether or not to add a piece of a historic water trail to a national list of recognized places. The National Trust for Historic Preservation, a Washington, D.C., based group, has applied for a portion of the Capt. John Smith Historic Water trail to be added to the national register of historic places. "It will have an effect, if the trail is listed," said Sharee Williamson, an associate general counsel for the National Trust for Historic Preservation. "It will be another resource that will be taken into account into making the permitting decision." Williamson said places that are listed on or eligible for listing receive protection from the National Historic Preservation Act. She said the group was seeking to have the portion of the trail near Jamestown Island added to the register. That could complicate things for Dominion, but what the impact will be remains to be seen. The utility giant wants to build the 500-kilovolt transmission lines across the James to connect its Surry Power Station to a switching station in Skiffes Creek in James City County. The company has said it has to install the transmission lines and station to avoid rolling blackouts on the Peninsula, after the closure of two coal burning units in its Yorktown Power Station. In documents filed with the State Corporation Commission, the power company said it expects to hear a decision regarding the Capt. John Smith Historic Water Trail permit between the middle of the month and the end of August. Opponents of the transmission lines have argued that they will threaten the historic viewshed of the James River. But others, like Newport News Mayor Joe S. Frank, who is a consultant with Dominion on the project, has said while the James is historic, it would not "resemble the area Capt. John Smith arrived at." Frank cited the Norfolk Naval Base, the Newport News Shipbuilding and the bridges and tunnels throughout the area as examples of how things are different.

### **ASSOCIATED PRESS (Va.)**

Groundbreaking for natural gas power plant in Loudoun County (August 6) LEESBURG -- State and local officials are breaking ground on a new power plant in Loudoun County that will generate enough electricity to power more than 750,000 homes. The natural gas power plant is being built in Leesburg by Bechtel and Siemens and is expected to begin operations in 2017. It will be operated by Dallas-based Panda Power Funds. Electricity from the plant will be used by customers throughout the mid-Atlantic region. Virginia Attorney General Mark Herring, U.S. Rep. Barbara Comstock, R-Va., and Loudoun County Board of Supervisors Chairman Scott York are participating in Thursday's groundbreaking ceremonies. Officials say the plant, called Stonewall Energy Center, will be among the cleanest gas-fueled power plants in the country and is being built in Leesburg to support the region's population growth.

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## **MISCELLANEOUS**

### **BNA DAILY ENVIRONMENT REPORT**

McCarthy Says Clean Power Plan 'Legally Solid,' Difficult to Reverse The head of the EPA is confident that the agency's carbon dioxide standards will be upheld in the courts and would be

difficult for future administrations to reverse. EPA Administrator Gina McCarthy says that the agency's Clean Power Plan is “quite legally solid,” though she acknowledged that the legality of the regulation will be debated “endlessly” over the next few years. The final Clean Power Plan is projected to reduce carbon dioxide emissions from the U.S. power sector by 32 percent below 2005 levels by 2030. The agency dropped a proposed energy efficiency component of the rule that critics had argued would illegally require emissions reductions beyond the fence line of the power plants themselves, a move that attorneys say makes the final rule more legally defensible.

Potential Seen for 4,000 Fracked Wells in Delaware Basin Aug. 11 — As many as 4,000 wells could use hydraulic fracturing in the Delaware River Basin to access natural gas in the Marcellus Shale if a moratorium on drilling in the area is lifted, according to a report released Aug. 11 by CNA, a nonprofit research and analysis organization in Arlington, Va. The analysis estimates future development of the interior Marcellus Shale region along the Delaware River Basin—which spans Pennsylvania, Delaware, New Jersey and New York—and attempts to quantify the potential impact to land cover, water and wastewater management, air quality, erosion and the health of roughly 45,000 people who could potentially live within one mile of a well pad if the area were developed. The report was funded by the Delaware Riverkeeper Network, an environmental group dedicated to the health of the Delaware River.

“There is currently a moratorium on fracking in the Delaware River Basin and a ban in New York state,” Paul Faeth, one of the co-authors of the study, told reporters during a conference call Aug. 11. “This study was done to help answer the question of what would happen if the Delaware River Basin moratorium were lifted, as well as the New York state ban.” The Delaware River Basin Commission (DRBC), the cross-state agency with legal authority over the moratorium on drilling in the basin, told Bloomberg BNA Aug. 11 that it has not changed its policies and is reviewing the report.

Data Requirements Set for One-Hour Air Standard for Sulfur Dioxide The EPA issues final requirements for state air agencies to gather data necessary to implement the one-hour national ambient air quality standard for sulfur dioxide. The final rule establishes three options to assess local sulfur dioxide levels in areas with large emissions sources. The agency says data collected under the final rule will be used to complete area designations for the standard of 75 parts per billion.

No Reports of Human Harm From Colorado Mine Spill, McCarthy Says While there have been no reports of harm to human health so far from the toxic mining waste release in southwest Colorado, the massive spill is a “tragic and very unfortunate incident,” McCarthy says, adding that the EPA is taking responsibility for the spill and is aiming to ensure the health and safety of residents near the Animas River. The river has been turned orange by the release of 3 million gallons of toxic mining wastewater—three times larger than originally estimated.

DOD Urged to Work With EPA on Predictive Toxicity Capacities The Defense Department should build upon the growing number of toxicity prediction technologies and collaborate with other agencies to enhance its ability to predict harms that could result from acute chemical

exposures, the chairman of a National Academies committee that studies the issue tells Bloomberg BNA. Off-the-shelf computer models and existing automated screening tests that predict acute toxicity do not fully serve the department's need to predict harm from chemicals that could be used to debilitate soldiers, David Dorman, who chaired the Committee on Predictive-Toxicology Approaches for Military Assessments of Acute Exposures, says.

17 States Join Litigation Over EPA Civil Penalty Rule A coalition of 17 states joins numerous industry groups in challenging an EPA rule that requires states to remove civil penalty shields from their plans to address excess air pollution during periods of startup, shutdown and malfunction. The states allege the EPA "erroneously concluded" that the state implementation plans are substantially inadequate under the Clean Air Act.

### **GREENWIRE**

13 states join chorus asking courts to put WOTUS on hold Thirteen states yesterday asked a federal judge to block U.S. EPA's major Clean Water Act jurisdiction rule from going into effect later this month. Led by North Dakota, the states have requested that a federal judge issue a preliminary injunction against the Waters of the U.S. rule before its Aug. 28 implementation date. The Obama administration rule will expand the number of streams and wetlands that automatically qualify for federal Clean Water Act protections. It has been largely applauded by environmental groups, but more than 25 states have filed a flood of lawsuits seeking to block it, largely claiming that it is an unconstitutional federal power grab that infringes on their states' rights. "The rule is perhaps the most controversial and widely objectionable rule that would usurp state and local control over vast reaches of water in North Dakota and across the nation," North Dakota Attorney General Wayne Stenehjem (R) said in a statement. North Dakota's lawsuit is joined by Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, South Dakota and Wyoming, as well as New Mexico's environmental agencies. It was filed in federal district court in southeast North Dakota. The states also asked for an oral argument to be scheduled on the injunction question the week of Aug. 24. A separate lawsuit from 11 other states was filed in federal court in Georgia. That court will hold a hearing tomorrow on whether to grant an injunction against the rule, with a ruling coming as soon as later this week. In either case, the bar for a court to grant a stay of a regulation while the litigation plays out is high. The challengers must show that they will suffer irreparable harm if the regulations are not put on hold and that it's likely that their arguments will ultimately succeed in court. The lawsuits are two of several challenges filed against the water proposal. Several industry and farming groups have also gone to court, as have environmentalists who claim the rule should be more far-reaching. Most of those cases are on hold at this point, however, as the court system is in the process of merging them into one case and determining the best court to review the consolidated litigation. The injunction motions are the earliest opportunities for the states to block the rule, which is an effort by EPA to clarify the Clean Water Act's jurisdiction after two muddled decisions from the Supreme Court.

AIR POLLUTION: EPA plots 'ambitious' timeline to address mercury rule costs U.S. EPA yesterday laid out what it called an "ambitious" schedule to address the Supreme Court's recent ruling on the Obama administration's landmark mercury and air toxics standards for power

plants. In a court document, EPA said it plans to ask federal appeals court judges to keep the rule in place while it addresses the costs. The agency committed to formally considering the costs of the rule by April 15, 2016 -- the compliance date for power plants that asked for a one-year extension to the rule. EPA's standards, finalized in December 2011, require coal-burning power plants to reduce emissions of mercury, lead, arsenic and other hazardous substances. In a 5-4 ruling in June, the Supreme Court sent the standards back to the federal appeals court, finding that EPA should have considered costs when it found that it was "appropriate and necessary" to regulate hazardous air emissions from power plants. The high court left the rule in effect.

EPA admits to misjudging pressure before spill U.S. EPA said it miscalculated how much water pressure was hidden behind debris plugging the Gold King Mine entrance when it accidentally released 3 million gallons of waste into a tributary of the Animas River last week. EPA on-scene coordinator Hayes Griswold said his team was trying to stick a pipe into the top of the mine in order to safely pump liquid out for treatment. But the effort dislodged too much debris, rupturing the mine's roof and spilling the water contaminated with lead, arsenic and other heavy metals. "We were very careful," he said (Steve Garrison, [\[Farmington, N.M.\] Daily Times](#), Aug. 10). This week, EPA is warning farmers, towns and tribes to shut down their water intakes as the plume of contamination passes down stretches of the Animas and San Juan rivers flowing toward Lake Powell. The agency said contaminants were flowing too fast to be an immediate health threat, and experts say the massive river system will dilute the waste before it can pose a long-term threat.

EPA: Former White House staffer signs on as McCarthy speechwriter U.S. EPA Administrator Gina McCarthy has a new top speechwriter. Becky Fried returned to the agency last month as director of speechwriting after four years working at the White House's science shop. She spent the early years of the Obama administration in communications jobs at EPA. In her new post, Fried directs and oversees all speechwriting for McCarthy. She's replacing Kevin Samy, who had the post for two years before taking a job as a speechwriter at the Defense Department, according to his LinkedIn profile. Fried spent four years working in communications in the White House Office of Science and Technology Policy, where she was the top speechwriter for President Obama's science adviser, John Holdren. She also helped lead the rollouts of the White House's climate announcements and managed the science office's social media efforts. Before joining the White House in early 2012, Fried was a special assistant to EPA's former science adviser Paul Anastas. She provided public outreach support in the Gulf of Mexico during the Deepwater Horizon oil spill and served on EPA's emergency operations team during Japan's Fukushima Daiichi nuclear incident, according to EPA. Fried has a bachelor's degree in environmental policy from Barnard College and two master's degrees from Columbia University in journalism and earth and environmental sciences.

## **NEW YORK TIMES**

EPA Treating Toxic Water From Abandoned Colorado Mine After Accident DENVER — Nearly a week after the Environmental Protection Agency accidentally breached a store of chemical-laced water from an abandoned mine in southwest Colorado, toxic water continues to spill at a rate of 500 to 700 gallons a minute, E.P.A. officials said Tuesday. The agency is treating the toxic water as it pours out, said David Ostrander, a regional emergency response director for the E.P.A. Colorado, New Mexico and the Navajo Nation have declared states of

emergency. And the Colorado governor, John W. Hickenlooper, visited the contaminated river on Tuesday, speaking to residents in Durango who have been barred from using the Animas River because of the spill. "We take this as a catalyst," Mr. Hickenlooper said, adding that there are thousands of abandoned mines in the West. "I think our goal here is to really focus on what we can do to make sure that those mines where we know we have a serious problem — how can we accelerate the remediation and make sure that something like this never happens again?" Gina McCarthy, the administrator of the E.P.A., apologized for the accident at an energy forum in Washington. "I am absolutely, deeply sorry that this ever happened," Ms. McCarthy said, according to The Associated Press. On Aug. 5, a team contracted by the E.P.A. was investigating the Gold King Mine, an abandoned gold mine near Silverton, Colo., that had been leaking toxic water at varied rates for years. The goal was to figure out how to stop that leak. Instead, while using a backhoe, workers knocked away debris and unleashed an onslaught of orange-yellow water. The toxic plume flowed into the Animas River and traveled south. On Tuesday, officials estimated it had reached Kirtland, N.M., more than 100 miles from the mine. The spill caused levels of arsenic, lead and other metals to spike in the Animas River. Mr. Ostrander said Tuesday that in Durango, a city about 50 miles south of the mine, the river's toxicity had returned to "pretty much a pre-incident level."

### **LA TIMES**

States downstream from contaminated river upset that EPA didn't alert them As the Environmental Protection Agency continued to monitor 3 million gallons of mine waste released into Colorado's Animas River, residents in two states downstream decried the federal agency Tuesday, saying it failed to alert them to mustard-colored sludge headed their way. Officials for New Mexico's San Juan County Office of Emergency Management said they learned of the oncoming rush of wastewater laden with lead, arsenic and other heavy metals not from the EPA, but in a newspaper in nearby Durango, Colo. In Page, Ariz., Mayor Bill Diak said that when he contacted EPA officials to attend an emergency community meeting Monday, the agency said no one was available. Agency officials responded only after Diak called his congresswoman in Washington, he said. "We told her, 'Hey, this really is a concern to us and the EPA doesn't have time to talk to us,'" Diak said. "They dropped the ball — using the media to get the word out." On Tuesday, EPA Administrator Gina McCarthy said her agency took full responsibility for the spill caused by federal and contract workers cleaning up the defunct Gold King Mine above the town of Silverton, Colo. McCarthy, who planned to visit affected areas Wednesday, said the spill "pains me to no end. I am absolutely, deeply sorry this ever happened." By late Tuesday, the leading edge of the spill was eight miles west of Farmington, N.M., more than 100 miles from the disaster site. Parts of the Animas and San Juan rivers have been declared disaster areas, as governors from Colorado and New Mexico conducted visits to communities that have shut off outtake valves from the polluted waterways. In a news conference held at an agency command center in Durango, EPA officials said workers were treating the 500 to 700 gallons of tainted water still leaking from the Gold King Mine. Though the EPA said stretches of the Animas south of the spill were clearing, residents described orange-colored silt on the river bottom and shoreline in many places. The agency will continue to monitor the silt "for years to come," EPA officials said, noting that sediment would be stirred up by rainfall or spring runoff.

### **REUTERS NEWS SERVICE**

As black bear sightings spike, New Jersey to vote on expanding hunt New Jersey, the U.S. state

most densely populated by humans, is also thick with black bears, and wildlife officials voted Tuesday to expand the hunting season after the state's first recorded fatal attack. New Jersey's northwest corner, less than 60 miles (96 km) from New York City, is home to one of the nation's highest concentrations of black bears, according to Larry Hajna, spokesman for the state Department of Environmental Protection. An annual bear hunt lasting six days in December was launched in 2010, when 3,600 bears were counted in the area. But even after five years of culling, the New Jersey bear population has surged back to 3,600, Hajna said. The Department of Environmental Protection's Fish and Game Council on Tuesday unanimously approved a recommendation by environmental officials to expand the geographic area of the hunting zones, Hajna said. The council also added an October hunt beginning in 2016, with the December hunting season often hampered by bad weather and less animal activity as the bears prepare to hibernate. Hunters will be allowed to kill one bear in each of the two hunting seasons, Hajna said. Animal advocates, including the Animal Protection League of New Jersey, opposed the plan and said they will continue to protest. "Even though the bear policy contains certain non-lethal provisions, it was not enough. As long as you have these bear attractants out in suburban neighborhoods, you're going to attract bears," said Doris Lin, vice president of legal affairs for the league. Bear sightings in the region have spiked. A Rutgers University student who was hiking in West Milford, New Jersey, was fatally mauled last September, and a series of bears have been shot dead after entering area homes. Last month, a homeowner responding to a loud noise found a 200-pound (91-kg) bear munching a bag of cat food in the family room of a West Milford residence. Police shot the animal dead. "We really need to increase the number of bears harvested so that we see a reduction in incidents," Hajna said. "It's better for the bears."